



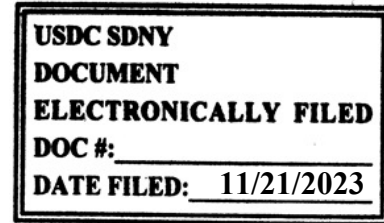
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## MEMO ENDORSED

November 20, 2023

### VIA CM/ECF

Hon. Katharine H. Parker, U.S.M.J.  
United States District Court for the  
Southern District of New York  
500 Pearl Street  
New York, New York



Re: *Smith v. Akela Contracting LLC et al.*, No. 22 Civ. 01185 (VSB)(KHP)

Dear Judge Parker:

We represent Plaintiff Anthony Smith, the current opt-in plaintiffs, and the putative class in the above referenced matter. We write jointly with Defendants JDV Safety Inc. ("JDV"), All Eyes on Safety Inc. ("AES"), and Brian McDermott ("McDermott", and, together with JDV and AES, the "JDV Defendants"), and with the consent of counsel for Defendants/Third-Party Plaintiffs Akela Contracting LLC ("Akela"), Akela Contracting/Civetta Cousins JV, Joint Venture, LLC (the "LLC"), and Karine Williams ("Williams", and, together with Akela and the LLC, the "Akela Defendants"), and counsel for Third-Party Defendant The City of New York, to respectfully request a new settlement conference in mid-January 2024 or as soon thereafter as available given ongoing developments in the case.

In sum, additional time is needed so that the settlement conference is in fact a meaningful discussion between all parties regarding potential resolution. In preparation for the conference, the parties have continued to supplement their prior document exchanges as necessary. The JDV Defendants made their best efforts after the close of the opt-in period to produce the required payroll records to Plaintiffs, however, they were only received last week Thursday. The payroll data is not in native format, but, rather, in various states of organization and formatting, which will require manual analysis and entry. As a result of this, there will not be sufficient time for Plaintiffs to analyze, process, and format the payroll information into a usable format in time for the Settlement Conference. Moreover, there would especially be no time for any such damages calculations to be shared between the Parties prior to their attendance at the conference, as outlined in Your Honor's Settlement Conference Rules.

This would be the second request for an adjournment and new date. Previously, the Court granted the parties' August 18, 2023, request, which moved the conference from September 19, 2023 to December 4, 2023. This request does not affect the current status conference set for December 7, 2023, and at which all parties shall still be required to appear, or the submission of the proposed Case Management Plan, which shall be timely submitted by November 29, 2023.

We thank the Court for its time and attention to our request.

Fitapelli & Schaffer, LLP

November 20, 2023

Page 2 of 2

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Sincerely,

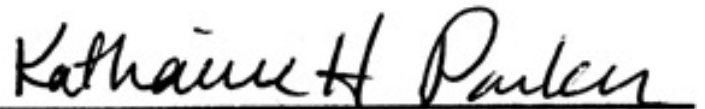
/s/ Armando A. Ortiz

Armando A. Ortiz

CC: All Counsel of Record

**APPLICATION GRANTED:** The Settlement Conference in this matter scheduled for Monday, December 4, 2023 at 10:00 a.m. in Courtroom 17-D, United States Courthouse, 500 Pearl Street, New York. is hereby rescheduled to **Wednesday, February 7, 2024 at 10:00 a.m.** Parties must attend with their counsel. Corporate parties must send the person with decision making authority to settle the matter to the conference. The parties are instructed to complete the Settlement Conference Summary Report and prepare pre-conference submissions in accordance with the Judge Parker's Individual Rules of Practice. Pre-conference submissions must be received by the Court no later than **January 31, 2024 by 5:00 p.m.**

**APPLICATION GRANTED**

A handwritten signature in black ink, reading "Katharine H. Parker", written over a horizontal line.

**Hon. Katharine H. Parker, U.S.M.J.**

11/21/2023